

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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FELICIA NASH-TAYLOR

Plaintiff,

v.

DIAGNOSTIC CENTER OF MEDICINE,

Defendant.

2:11-cv-1128-LRH-RJJ

AMENDED ORDER

The following order amends the court's November 15, 2011 order. Doc. # 11.

Before the court is defendant Diagnostic Center of Medicine LLP's ("Diagnostic Center") motion to dismiss plaintiff's second claim for relief. Doc. #8.¹ Plaintiff Felicia Nash-Taylor ("Nash-Taylor") did not file an opposition.

On July 7, 2011, Nash-Taylor, a former employee of Diagnostic Center, filed a complaint alleging four causes of action: (1) sexual harassment and retaliation; (2) discrimination; (3) negligent infliction of emotional distress; and (4) negligent hiring, retention, and supervision. Doc. #1. Thereafter, Diagnostic Center filed the present motion to dismiss Nash-Taylor's second cause of action for failure to file a state discrimination charge (Doc. #8) to which Nash-Taylor did not respond.

¹ Refers to the court's docketing number.

1 While the failure of an opposing party to file points and authorities in response to any
2 motion shall constitute a consent to the granting of the motion under LR 7-2(d), Nash-Taylor's
3 failure to file an opposition, in and of itself, is an insufficient ground for dismissal of her claim. *See*
4 *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). Before dismissing a cause of action, a district
5 court is required to weigh several factors: (1) the public's interest in the expeditious resolution of
6 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the defendant; 4) the
7 public policy favoring disposition of cases on their merits; and (5) the availability of less dramatic
8 sanctions. *Id.*

9 Here, these factors weigh in favor of dismissing Nash-Taylor's second cause of action. The
10 need for the expeditious resolution of cases on the court's docket is strong. Diagnostic Center has
11 an interest in resolving this matter in a timely manner. Further, there is a lack of prejudice to
12 plaintiff because Nash-Taylor has shown an unwillingness to continue litigating this cause of action
13 which weighs in favor of granting the motion. Additionally, although public policy favors a
14 resolution on the merits, the court finds that dismissal of Nash-Taylor's second cause of action is
15 warranted in light of these other considerations.

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17 IT IS THEREFORE ORDERED that defendant's motion to dismiss (Doc. #8) is
18 GRANTED. Plaintiff's second cause of action for discrimination is DISMISSED.

19 IT IS SO ORDERED.

20 DATED this 22nd day of November, 2011.



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23 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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